

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

The Kroger Co.,	:	Case No.: C-1-02 439
	:	
Plaintiff,	:	Judge Beckwith
	:	
v.	:	
	:	DEFENDANT'S MOTION FOR LEAVE
Malease Foods Corp., formerly	:	FOR EXTENSION OF TIME TO FILE
known as Malese Foods Corp.,	:	MOTION FOR SUMMARY JUDGMENT
	:	
Defendant.	:	

Pursuant to the S.D. of Ohio Civ. R. 6.1 and 7.3 and for the reasons set forth in the attached memorandum, Defendant Malease Foods Corp. moves the Court for an extension of time to April 12, 2004 in which to file its motion for summary judgment herein.

Respectfully submitted,

/s/ R. Gary Winters

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of March, 2004 a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

The Kroger Co.,	:	Case No.: C-1-02 439
	:	
Plaintiff,	:	Judge Beckwith
	:	
v.	:	MEMORANDUM IN SUPPORT OF
	:	DEFENDANT'S MOTION FOR LEAVE
Malease Foods Corp., formerly	:	FOR EXTENSION OF TIME TO FILE
known as Malese Foods Corp.,	:	MOTION FOR SUMMARY JUDGMENT
	:	
Defendant.	:	

Pursuant to the Court's Calendar Order of April 29, 2003, a dispositive motion deadline was established for March 1, 2004. However, due to unavoidable delays in the scheduling of several depositions, defendant was unable to conclude necessary discovery and prepare its motion by that date. Accordingly, defendant requests an extension to April 12, 2004 to file its motion for summary judgment herein. Counsel for plaintiff has been advised of defendant's desire, and has advised defense counsel that they have no objection to this extension.

Accordingly, for the reasons stated herein, defendant Malease Foods

Corporation requests that its motion for additional time be granted. The extension will not delay the expeditious resolution of this matter, and will not prejudice the plaintiff.

Respectfully submitted,

/s/ R. Gary Winters

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